

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

SINTHALAY CHANTHANALAY
TX-1360006-R

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DOCKETED COMPLAINT NO.
13-211

AGREED FINAL ORDER

On the 21 day of Nov, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Sinthalay Chanthanalay (the "Respondent").

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order (the "Order"). The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number, TX-1360006-R, and was certified by the Board during all times material to the above-noted complaint.
2. On or about December 6, 2012, Respondent appraised a residential condominium property located at 2475 Underwood Street #270, Houston, Texas ("the property") on or about December 12th, 2012.
3. On or about April 29, 2013, a complaint was filed with the Board by Mark Liley, an employee of Flagstar Bank, FSB, claiming the appraisal report contained various deficiencies. The Board reviewed the complaint to ensure compliance with Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. On or about May 3, 2013, the Board, in accordance with the mandate of the Administrative Procedure Act (the "APA"), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of his appraisal report for the property:

- a) USPAP Ethics Rule (conduct) – Respondent misrepresented he had inspected the property when that was not the case;
- b) USPAP Record Keeping Rule – Respondent's work file does not contain the documentation necessary to support his analyses, opinions and conclusions;
- c) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(vii) – Respondent failed to perform the necessary scope of work necessary for development of credible assignment results;
- d) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the improvement(s) and site description adequately;
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii) – Respondent misrepresented the project budget was not available and failed to disclose and analyze information about expenditures and reserves;
- f) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(viii) – Respondent failed to identify and analyze the effect on use and value of economic supply & demand, and market area trends and did not summarize his rationale for his highest and best use determination;
- g) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data and did not employ recognized methods and techniques in his sales comparison approach;
- h) USPAP Standard 2-2(b)(viii) – Respondent misrepresented that condo units were not purchased for income purposes even though roughly 30% of the units were being leased. He failed to conduct an income approach when one was necessary and he failed to support his exclusion of the income approach;
- i) USPAP Standards 1-6(a), (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches to value; and,
- j) USPAP Standards 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the property that contained substantial errors of omission or commission by not employing correct methods and techniques.

6. Respondent made material misrepresentations and omissions of material fact with respect to his appraisal of the property as detailed above.

7. The parties enter into this consent order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas appraiser certification be suspended, effective 5:00 p.m. (CST) on November 21st, 2014 and ending at 5:00 p.m. (CST) on August 20th, 2016. IT IS FURTHER ORDERED that beginning at the latter of: (1) 5:00 p.m. (CST) on December 5th, 2014 or (2) the time at which all remedial education, administrative penalties and mentorship required by this agreed final order is completed, submitted and received by the Board, the suspension is to be fully probated for the remaining time period, ending on 5:00 p.m. (CST) on August 20th, 2016, subject to the following terms and conditions:

1. **EDUCATION.** On or before November 20th, 2015. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - a. A minimum fifteen (15) classroom hour course in USPAP;
 - b. A minimum seven (7) classroom hour course in the Income Approach for residential properties; and,
 - c. A minimum seven (7) classroom hour course in the Sales Comparison Approach;
2. **MENTORSHIP.** On or before February 20th, 2015. Respondent shall complete sixteen (16) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set

out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The 16 hours of mentorship shall include:

- a. 4 hours in the income approach;
 - b. 4 hours in research, selection and analysis of comparable sales;
 - c. 4 hours in residential report writing;
 - d. 4 hours in developing a sufficient scope of work;
3. **ADMINISTRATIVE PENALTY.** On or before December 11th, 2014. Respondent shall pay to the Board an administrative penalty of four thousand dollars (\$4,000.00) by cashier's check or money order, within twenty (20) days of the effective date of this order (i.e. on or before December 11th, 2014).
 4. **TRAINEES.** Respondent shall not sponsor any appraiser trainees during the entire eighteen (18) month probation period.
 5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
 6. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ACKNOWLEDGMENT AND WAIVER

Respondent's failure to timely comply with any term in this agreed final order, which has a specific stated due date, shall result in the automatic revocation of probation and the suspension and \$4,000 administrative penalty imposed in this agreed final order shall be effective for the full term and amount, commencing on the effective date of the revocation of probation. In such case, the \$4,000 administrative penalty shall be due within 20 days of the effect date of the revocation of probation. If Respondent fails to timely comply with any term in this agreed final order, which has a specific, stated due date, the Respondent shall also be immediately assessed a \$1,000 administrative penalty.

Any such suspension shall be effective without the need for a hearing or other administrative due process under the Texas Appraiser Licensing and Certification Act or the administrative procedure act and Respondent specifically waives any such hearing or due process.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: compliance.talcb@talcb.texas.gov; (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

EXECUTION

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

RESPONDENT

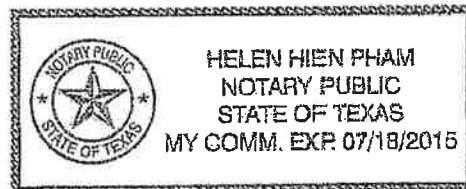
Signed this 29 day of August, 2014.

Sinthalay Chanthanalay
SINTHALAY CHANTHANALAY

David Tang
DAVID TANG, ATTORNEY FOR
SINTHALAY CHANTHANALAY

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 3 day of Sept, 2014, by SINTHALAY CHANTHANALAY, to certify which, witness my hand and official seal.

Helen Hien Pham
Notary Public Signature
Helen Hien Pham
Notary Public's Printed Name



BOARD STAFF ATTORNEY

Signed by the Standards and Enforcement Services Division this 4th day of SEPTEMBER, 2014.

Troy Beaulieu
Troy Beaulieu, Staff Attorney
Texas Appraiser Licensing and Certification Board

BOARD COMMISSIONER

Signed by the Commissioner this 21 day of NOV, 2014.

Douglas Oldmixon
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

BOARD CHAIRPERSON

Approved by the Board and Signed this 21 day of November, 2014.



Jamie S. Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board